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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/715,988

11/18/2003

James J. Fitzgibbon

79076

4889

22242

7590

12/14/2006

FITCH EVEN TABIN AND FLANNERY
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EXAMINER

BANGACHON, WILLIAM L

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,988

Applicant(s)

FITZGIBBON ET AL.

Examiner

William L. Bangachon

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-15 and 17-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) ✓
Paper No(s)/Mail Date <u>10/4/06</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Examiner's comments</u> . |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/4/2006 has been entered.

Drawings

2. The objection to the drawings under 37 CFR 1.83(a) is withdrawn.

Response to Arguments

3. Applicant's arguments filed 10/4/2006 have been fully considered but they are not persuasive.

The Examiner respectfully traverses applicant's argument that "the Clark reference is silent as to having a user enter authorization codes or requiring a successful authentication of a code to generate a control signal" [page 7, 5th – 6th paragraph]. In this case, applicant is directed to col. 4, lines 11-46 of Clark wherein Clark teaches of a house code unit 113 in the RF transmitter 110 and a house code unit 123 in the controller. The house code units 113 and 123 permit the operator (user), to

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semi-permanently specify (enter or input) a particular house code (i.e. claimed user authorization code) {col. 3, lines 28-38; col. 4, lines 14-17}. The radio frequency receiver is insensitive to received signals except those including the proper house code as set by house code unit 123 {col. 4, lines 19-22}. Obviously, the determination as to whether the house code transmitted by the RF transmitter 110 is a proper house code (i.e. the transmitted house code matches the house code stored in the house code unit 123), is analogous to the claimed authentication process.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

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the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-5, 7-8, 10-15, 17-19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,847,542 (Clark et al).

In claims 1 and 11, Clark et al teach of an entry control system (100) for permitting authorized users to access a controlled area by moving a barrier, comprising:

a secure push-button 117 or door push-button 115 (i.e. close button) generating a secure signal including a house code 133 (i.e. coded signal) {col. 3, lines 39-50+};

a house code device 113 and 123 (i.e. entry request device) for accepting a user authorization code (i.e. house code) {col. 3, lines 28-38+};

a motor controller 120 operably coupled to the entry request device and the secure push-button 117 or door push-button 115 and having an output, as shown in Fig. 1,

such that the motor controller receives and authenticates the house code (i.e. user authorization code) {col. 4, lines 19-30} and an indication of a position of the barrier {col. 4, lines 34-46} and determines based at least in part upon a successful authenticating of the house code (i.e. up door or down door) and the indication of the

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position of the barrier whether a first control signal should be generated at the output {col. 7, line 48+}, the motor controller (120) also receiving a secure signal indicating actuation of the close button and selectively generating a second control signal at the output based at least in part upon the indication of the position of the barrier {col. 9, lines 12+}. Although Clark is silent with regards to "a successful authenticating of the user authorization code", it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to readily recognize that the transmission of the secure signal is analogous to the claimed "user authentication code indicating an actuation of the close button". The house code in the secure signal of Clark is obviously used by the controller 120 to authenticate a RF transmitter to determine whether the RF transmitter is intended for a certain household or not, by determining whether the RF transmitter employs the same house code stored in the house code unit 123. This also prevents non-authorized RF transmitters (i.e. not having the same house code) to operate the barrier {see background of the invention, col. 1, lines 18-26}.

In claims 2 and 12, the system of claim 1 comprising a receiver communicatively coupled to the transmitter at the output, the receiver receiving the first and second control signals {col. 4, lines 11+}.

In claims 3 and 13, the system of claim 2 comprising a barrier operator coupled to the receiver, the operator selectively moving the barrier upon receipt of the first and second control signals {see flowchart of Fig. 2D}.

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In claims 4 and 14, the system of claim 1 wherein the entry request device is a plurality of two position switches for specifying the house code (i.e., keypad) {col. 3, lines 28-37+}.

In claims 5 and 15, the system of claim 1 wherein the first control signal opens the barrier (i.e. movement of the door is upward) and the second control signal closes the barrier {col. 10, lines 46-48. also see flowchart of Figs. 2A-2D}.

In claims 7 and 17, the system of claim 1 wherein the close button changes function after a predetermined time period {col. 9, lines 45+}. In this case, when the close button is pressed the second time, the close button changes to unsecure. Also see col. 7 lines 14-37 with regards to the controller time.

In claims 8 and 19, the system of claim 1 comprising RF receiver 122 (i.e. detector) for detecting the house code (i.e. RF-ID) coupled with secure and unsecured control signals, and wherein the second control signal is not transmitted unless the controller detects an RF-ID. In this case, if the second control signal (secure signal) is not detected by the RF-ID receiver (122), it is considered by the controller 120 as not having the secure signal transmitted.

In claims 10 and 21, the system of claim 1 wherein the generation of the control signals is delayed for a predetermined time after the actuation of the specific action button. See col. 7, lines 12-37 with regards to the motor controller timer. In this case, if the garage door is moving up or down and the specific action button is triggered to cause the garage door to move to the opposite direction {col. 10, lines 46-49; col. 11, lines 5-9}. An Official notice is taken in that it would have been obvious to one of

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ordinary skill in the art to readily recognize that the generation of the control signal to reverse the direction of the motor is delayed for a predetermined time, depending on the type of motor used (usually given in the motor specification), to avoid ruining the motor.

In claim 18, the secure button (close button) of Clark functions as a stop button whenever an obstruction is detected or the motor times out {col. 8, lines 21+}.

8. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 4,847,542 (Clark et al) in view of USP 6,161,005 (Pinzon).

With regards to claims 9 and 20, Clark does not disclose a biometric identification system. However, these claimed features have been conventionally used to authenticate a user, as evidenced by Pinzon. Pinzon, in the same field of endeavor, teaches of a remote door locking/unlocking apparatus shown in figure 2A, incorporating a voice recognition system (25) (i.e. biometric identification system) for authenticating a user {Pinzon, col. 6, lines 18-30+}. Pinzon suggests that authenticating a user with voice recognition is advantageous because of the unique characteristics of individuals and a voice recognition system do not require remote controllers to be carried by a user {Pinzon, col. 8, lines 25-43+}. Obviously, a voice recognition system is beneficial in the system of Clark because it provides another way of authenticating a user. Therefore, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have a voice recognition system in the system of Clark, as taught by Pinzon, because a voice recognition system do not require remote controllers to be

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carried by a user. A user does not need to worry about losing or carrying a remote controller.

Office Contact Information

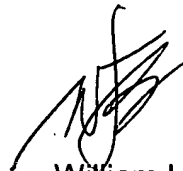
9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to William Bangachon whose telephone number is **(571)-272-3065**. The Examiner can normally be reached on Monday – Thursday, 8:30 AM – 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy Garber can be reached on **(571)-272-7308**. The fax phone numbers for the organization where this application or proceeding is assigned is **571-273-8300** for regular and After Final formal communications. The Examiner's fax number is **(571)-273-3065** for informal communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

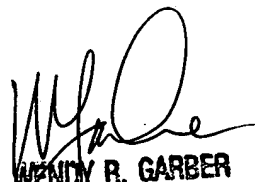
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



William L Bangachon
Examiner
Art Unit 2635

November 3, 2006



WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600